

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.¹

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All maintenance employees, including porters, car washers, grease men, parts men, machinists, welders, mechanics, and painters at the Employer's place of business located in Kansas City, Missouri, but excluding truck drivers, foremen, office clerical employees, and supervisors as defined in the Act.²

[Text of Direction of Election omitted from publication in this volume.]

¹ The record shows that the Unions jointly requested exclusive recognition from the Employer on several occasions, picketed the Employer's place of business to gain such recognition, and at the hearing expressly claimed a majority of the employees in the unit. Although the Unions also expressed a desire against holding an election at the present time, they made no disclaimer of any right to recognition. Accordingly, we find that a question of representation exists within the meaning of Section 9 (c) (1) (B) of the Act. Cf. *General Paint Corporation*, 95 NLRB 539; *Hamilton's Ltd.*, 93 NLRB 1076.

² The parties are in agreement as to the unit.

WILSON & CO., INC. and AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, AFL, PETITIONER. *Case No. 13-RC-2933*.¹ December 31, 1952

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Raymond A. Jacobson, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Murdock, and Styles].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organizations involved claim to represent certain employees of the Employer.

¹ Although the petition in Case No. 13-RC-2951 was consolidated with the instant case, the Chicago Journeymen Plumbers Local Union 130, U. A., A. F. of L., submitted a request for withdrawal of the petition in the former case. Before the hearing, the withdrawal request was approved by the Regional Director, and an order severing cases was served upon the parties.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The Petitioner seeks a unit of all production and maintenance employees at the Employer's Chicago packinghouse plant, including the wholesale and retail meat market employees. The Employer agrees with the Petitioner that a unit of production and maintenance employees at the packinghouse plant is appropriate but contends that the firemen, weekly paid checkers, weekly paid scalers, commissary storekeeper, printing and stationery shop employees, wholesale meat market, and retail meat market employees should be excluded. The United Packinghouse Workers of America, Local 25, CIO, hereinafter called the Intervenor, takes no position with respect to the disputed categories of employees.

Wilson & Co., Inc., is a Delaware corporation with its principal offices in Chicago, Illinois. It operates 12 packinghouse plants and about 90 branch houses throughout the United States. Only the Employer's branch house, including the retail and wholesale meat markets, and the packinghouse plant located at the Union Stockyards in Chicago, Illinois, are involved in the present proceeding. At the packinghouse plant the Employer purchases, assembles, and slaughters livestock, and processes, manufactures, and distributes various meat products and byproducts thereof. The wholesale and retail meat markets are a branch of the Company engaged in the wholesale sale and distribution of meat and produce, and the retail sale of meat and produce.

Firemen: The Employer contends that the 5 to 10 employees who are now employed as firemen should be excluded as "guards," notwithstanding the fact that they have heretofore been included in the production and maintenance unit. This contention is based upon testimony that within the next month these employees will be made part of the plant protection department, and that the duties of guards and firemen will be interchangeable among the employees within that department. There is no evidence, however, that at the present time the firemen are charged with any duties other than fire protection at the Employer's plant. Accordingly, we shall include them.²

Weekly paid checkers: The packinghouse plant employs 25 checkers, who are salaried employees, and who have heretofore been excluded from the contractual unit. These employees compare invoices with the products received and shipped to ascertain the correctness of the loads, and occasionally assist with the loading and unload-

² Cf. *Wilson & Co., Inc.*, 81 NLRB 497. In the event, however, that these employees become in fact guards within the meaning of the Act, they will necessarily be excluded from the existing unit at that time.

ing of trucks. Moreover, there is no interchange between these employees and the production department employees. As distinguished from the hourly paid checkers who have been historically included in the existing unit, the weekly paid checkers do little manual work. The duties of the weekly paid checkers are in the main similar to those of plant clerks, whom the Petitioner does not seek to represent within the unit. We shall therefore exclude them.³

Weekly paid scalers: The Board declined to include these employees in a production and maintenance unit at the same packinghouse plant, where the plant clerks were excluded from the unit, and where, contrary to the evidence relating to hourly paid scalers, there was no special bargaining history, and no interchange between these employees and the production department employees.⁴ As the Petitioner does not seek to represent the plant clerks, and absent any change in the factors discussed hereinabove, we shall exclude the weekly paid scalers.

Commissary storekeeper: The Board declined to include the commissary storekeeper in a unit of production and maintenance employees at the same packinghouse plant, where the plant clerks were excluded from the unit.⁵ As the Petitioner does not seek to represent the plant clerks, and in the absence of any evidence that the commissary storekeeper is not a plant clerk, we shall exclude him from the unit for the reasons stated above.

Printing and stationery shop employees: There are 20 to 25 employees employed by the Employer in its printing and stationery shop. These employees have been represented by the Intervenor, as part of the production and maintenance unit, since 1943.⁶ The record reveals that this shop has been moved from the Chicago plant to a new location at 39th Street, Chicago, Illinois, some 3 miles distant from the Chicago packinghouse plant. These employees print the labels, tags, and stationery for all of the Employer's operations. Approximately 10 percent of the shop's production is for the Chicago packinghouse plant. The employees in question are covered by the seniority provisions of the packinghouse plant. However, they are presently under a separate payroll of the Employer, and under a separate manager who reports to the comptroller of the Employer. There appears to be no interchange between these employees and the employees of the packinghouse plant. No union seeks to represent the printing and stationery shop employees on a separate basis. In view of the foregoing, particularly the extensive history of collective bargaining relating to

³ Cf. *Wilson & Co., Inc.*, 81 NLRB 501.

⁴ *Ibid.*

⁵ *Supra*, footnote 2.

⁶ *Wilson & Co., Inc.*, 45 NLRB 831.

these employees, we shall include them in the over-all packinghouse unit.⁷

Wholesale and retail meat market employees: The Chicago wholesale and retail meat markets are a part of the sales organization of the Employer, set up as a part of Wilson & Co.'s branch house organization, servicing the Chicago area.

The record reveals that the wholesale and retail meat markets are located at the entrance to the packinghouse plant, and are separated by a stairway. The wholesale meat market employees handle the meats sold to wholesale dealers in the Chicago area, including its own retail meat market. The retail meat market, in turn, sells meat to any customers, including the packinghouse employees. Approximately 40 employees are employed at the wholesale meat market, including 3 or 4 beef breakers. Ten butchers and wrappers are employed at the retail meat market. The employees at the 2 markets are under the immediate supervision of their respective managers, who are, in turn, responsible to the vice president in charge of the branch houses. Although the retail meat market employees have never been covered by any collective-bargaining agreement, the wholesale meat market employees have been represented by the Intervenor since 1946 under a separate contract.⁸

On the other hand, the packinghouse plant, a part of the manufacturing division of the Employer, is under the supervision of a superintendent, who exercises no supervision over the wholesale and retail meat markets. The two operations maintain separate payroll, administrative, and financial records. In short, the packinghouse, on the one hand, and the wholesale and retail meat markets, on the other, are separate entities independent of each other.

In view of the separate history of collective bargaining insofar as the wholesale meat market employees are concerned, and the non-integrated character of the packinghouse plant and branch house division, we will not include the wholesale and retail meat market employees in the production and maintenance unit.⁹

We find, therefore, that the following employees of the Employer constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

⁷ Cf. *Los Angeles Paper Box & Board Mills*, 101 NLRB 1026; *Crawford Clothes, Inc.*, 93 NLRB 1121.

⁸ *Wilson & Co., Inc.*, 68 NLRB 592. The Intervenor's interest is based upon a current contract, which none of the parties asserts as a bar.

⁹ *Supra*, footnote 6. We will not consider at this time whether the wholesale and retail meat market employees together constitute a separate appropriate unit, as the Petitioner has made no showing of interest to represent these employees, and has manifested no desire to represent them in a separate unit. *Jaw Beer Company of Houston, Texas*, 89 NLRB 1233.

All production and maintenance employees¹⁰ employed at the Employer's Chicago, Illinois, packinghouse plant, including hourly paid checkers and scalers, gang leaders, plant commissary employees, plant tractor drivers, carlines, storeroom employees, matrons, printing and stationery shop employees, and firemen; but excluding weekly paid scalers and checkers, the chef, assistant chef, clerks in the plant commissary, chauffeurs, shop fat drivers, sanitation tractor drivers, bricklayers, office and clerical employees, general office employees, plant protection employees, laboratory employees, office restaurant employees, commissary storekeepers, office stationery employees, superintendents, division superintendents, foremen, sales employees, plant clerical employees, timekeeping department employees, medical department employees, planning and methods department employees, Koshermen, office janitors, all garage employees (including chauffeurs, cripple cart drivers, utility chauffeurs, truck helpers, mechanics, greasers, washers, mechanics' helpers, truck painters, and general handyman), brickmasons, wholesale meat market employees, retail meat market employees, and all supervisors as defined in the Act.

[Text of Direction of Election omitted from publication in this volume.]

¹⁰ As the category of stable employees has been abolished, the parties have stipulated to exclude this group from the unit.

AMERICAN CABLE & RADIO CORPORATION *and* COMMUNICATIONS WORKERS OF AMERICA, CIO, PETITIONER. *Case No. 2-RC-1670. December 31, 1952*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Harold L. Richman, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. American Cable & Radio Corporation, herein called AC & R, a wholly owned subsidiary of International Telephone & Telegraph Company, is a holding and management company operating an international and Nation-wide radio and communications system through the three wholly owned operating companies involved in this case: Mackay Radio & Telegraph Company, Inc., The Commercial Cable Company, and All-America Cables & Radio, Inc., herein called Mackay, Commercial Cable, and All-America, respectively. AC & R